



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/140,886	08/26/98	WILSON	H N1205-003

ROTHWELL FIGG ERNST & KURZ
SUITE 701-E
555 13TH STREET NW
WASHINGTON DC 20004

HZ12/0305

EXAMINER
ZAGHMOUT, O

ART UNIT	PAPER NUMBER
1638	16

DATE MAILED: 03/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.
09/140,886

Applicant(s)
Wilson et al.

Examiner
Ousama Zaghmout

Group Art Unit
1638



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on Oct 18, 2000 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Feb 20, 2001 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

DAVID T. FOX
PRIMARY EXAMINER
GROUP ~~180~~ 1638

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☒ they raise the issue of new matter. (See note below).
- ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The newly amended claims (claims 1 and 15) raise new 112 1st, and 2nd issues. For Example the word "uncharacterized" is considered vague and indefinite as it is not defined in the specification in concise and clear manner. Thus, new matter issues, as well as enablement issues, are also raised.

- ☐ Applicant's response has overcome the following rejection(s):

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Applicants' arguments in the reply after final are duplicative of those previously stated and are not persuasive for the same reasons of record stated in the previous Office action. As such, all rejections of record are maintained.
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):
- Claims allowed: _____
- Claims objected to: _____
- Claims rejected: 1-22

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

- ☒ Other

Interview Summary
* Art rejection rebuttal based on non-entered amendment.
Stine declaration not probative (opinion). Wilson declaration does not address agronomic trait aspect or expression of any gene other than already present markers.